

JOHN L. MESSINGER
NORRIS C. DELAMORE, JR.

IBLA 81-30
81-52

Decided June 30, 1981

Appeals from decisions of Montana State Office, Bureau of Land Management, dismissing protests of decisions returning remittance and drawing entry cards for simultaneous oil and gas lease drawing. MTA-Sims-005 and MTA-Sims-007.

Reversed and remanded.

1. Accounts: Payments -- Oil and Gas Leases: Applications: Drawings --
Oil and Gas Leases: Applications: Filing

A cashier's check is an acceptable form of remittance for payment of the filing fee accompanying a simultaneous oil and gas lease offer under 43 CFR 3112.2-2. A cashier's check is a draft drawn by the issuing bank upon itself, signed by an authorized employee of the bank, and payable to another person. Where a check submitted as a filing fee appears to meet these criteria on its face, it will be considered the equivalent of a cashier's check.

2. Accounts: Payments -- Oil and Gas Leases: Applications: Drawings --
Oil and Gas Leases: Applications: Filing -- Regulations: Interpretation

A regulation specifying a bank money order as an acceptable form of remittance requires the acceptance of a personal money order issued by a bank.

APPEARANCES: John L. Messinger and Norris C. Delamore, Jr., pro sese.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

John L. Messinger and Norris C. Delamore, Jr., have appealed from decisions of the Montana State Office, Bureau of Land Management (BLM), dated September 12, 1980, dismissing their protests of decisions returning their remittance and drawing entry cards (DEC) for various oil and gas leases 1/ offered at the July 1980 simultaneous drawing because they failed to comply with 43 CFR 3112.2-2. 2/ That regulation specifies the acceptable form of remittance. Appellant Messinger's remittance was in the form of a "tellers' check;" appellant Delamore's remittance was in the form of a "personal money order." Issuance of any leases has been held in abeyance pending the decision on appeal.

The applicable regulation, 43 CFR 3112.2-2, provides that "[t]he filing fee shall be paid in U.S. currency, post office or bank money order, bank cashier's check or bank certified check, made payable to the Bureau of Land Management." Submission of an unacceptable remittance will result in return of the DEC and the filing fee. 43 CFR 3112.5.

In his statement of reasons for appeal, appellant Messinger states that his "tellers' check" was accepted by BLM State Offices in Colorado, New Mexico, Nevada, Utah, and Wyoming and that he was assured by his bank that the "tellers' check" was "in every way equivalent to a cashier's check," which his bank did not issue. In his statement of reasons, appellant Delamore states that his "personal money order" was accepted by BLM State Offices in New Mexico, Utah, and Wyoming and that it was "in fact a bank money order," that is, "a bank obligation." Appellant argues that the inscription "'personal money order' does not alter this fact."

[1] Copies of the checks submitted by appellant Messinger show that they are checks drawn on and issued by the Bank of New York, signed by an authorized officer of the bank with the Bureau of Land Management as payee. In the upper left hand corner of the instruments submitted by Messinger are printed the words "TELLERS' CHECK." In all respects, appellant's checks appear to be cashier's checks and, as such, acceptable under 43 CFR 3112.2-2. See also Anderson, Uniform Commercial Code, § 3-104:18 (2d ed. 1971).

1/ The various leases and applicable parcels are listed in Appendix A with respect to appellant Messinger and in Appendix B with respect to appellant Delamore.

2/ References herein are to the simultaneous oil and gas leasing regulations published at 45 FR 35156 (May 23, 1980), with an effective date of June 16, 1980.

A check which appears on its face to be a valid cashier's check, even when not so titled, is an acceptable form of remittance under 43 CFR 3112.2-2 and a BLM decision refusing to accept the check will be reversed. Frank H. Gower, Jr., 53 IBLA 146 (1981); Oxy Petroleum, Inc., 52 IBLA 239 (1981).

[2] A copy of the personal money order submitted by appellant Delamore shows that it was issued by the St. Bernard Bank and Trust Co., was payable at the Whitney National Bank of New Orleans, and was signed by appellant with the Bureau of Land Management as payee. It is not signed by an authorized bank employee. Appellant's submission is best characterized as a bank personal money order. A bank personal money order is a bank money order within the meaning of 43 CFR 3112.2-2. Charles J. Rydzewski, 55 IBLA 373, 88 I.D. 625 (1981).

While pointing out the distinction between bank money orders and bank personal money orders in Rydzewski, the Board reasoned that, since 43 CFR 3112.2-2 itself did not specify what types of money orders issued by banks were acceptable, personal money orders issued by a bank should be accepted. Id. at 379, 88 I.D. at 628.

BLM improperly returned appellants' remittances and DEC's. Accordingly, their oil and gas lease offers are remanded to BLM for a reselection in accordance with the procedures set forth in 43 CFR 3112.3-2. See Ross L. Kinnaman, 48 IBLA 239 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are reversed and the cases remanded to BLM.

Bruce R. Harris
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

James L. Burski
Administrative Judge

APPENDIX A

MTA-Sims-005

<u>Parcel Numbers</u>	<u>Lease Numbers</u>
MT- 2	M 48592
MT- 5	M 48595
MT- 6	M 48596
MT- 7	M 48597
MT- 8	M 48598
MT- 9	M 48599
MT- 10	M 48600
MT- 12	M 48602
MT- 13	M 48603
MT- 14	M 48604
MT- 15	M 48605
MT- 23	M 48613
MT- 27	M 48617
MT- 28	M 48618
MT- 29	M 48619
MT- 30	M 48620
MT- 31	M 48621
MT- 32	M 48622
MT- 35	M 48625
MT- 36	M 48626
MT- 37	M 48627
MT- 38	M 48628
MT- 40	M 48630
MT- 41	M 48631
MT- 42	M 48632
MT- 43	M 48633
MT- 44	M 48634
MT- 45	M 48635
MT- 51	M 48641
MT- 52	M 48642
MT- 53	M 48643
MT- 54	M 48644
MT- 55	M 48645
MT- 56	M 48646
MT- 57	M 48647
MT- 58	M 48648
MT- 59	M 48649
MT- 60	M 48650
MT- 61	M 48651
MT- 63	M 48653
MT- 64	M 48654
MT- 65	M 48655

MT- 67	M 48657
MT- 68	M 48658
MT- 69	M 48659
MT- 70	M 48660
MT- 71	M 48661
MT- 72	M 48662
MT- 73	M 48663
MT- 74	M 48664
MT- 75	M 48665
MT- 76	M 48666
MT- 77	M 48667
MT- 78	M 48668
MT- 79	M 48669
MT- 80	M 48670
MT- 81	M 48671
MT- 82	M 48672
MT- 83	M 48673
MT- 84	M 48674
MT- 85	M 48675
MT- 86	M 48676
MT- 87	M 48677
MT- 88	M 48678
MT- 89	M 48679
MT- 90	M 48680
MT- 91	M 48681
MT- 92	M 48682
MT- 93	M 48683
MT- 94	M 48684
MT- 95	M 48685
MT- 96	M 48686
MT- 97	M 48687
MT-101	M 48691
MT-103	M 48693
MT-104	M 48694
MT-105	M 48695
MT-107	M 48697
MT-108	M 48698
MT-126	M 48716
MT-127	M 48717
MT-128	M 48718
MT-129	M 48719
MT-130	M 48720
MT-131	M 48721
MT-132	M 48722
MT-133	M 48723
MT-134	M 48724
MT-135	M 48725
MT-136	M 48726

APPENDIX B

MTA-Sims-007

Parcel Numbers

Lease Numbers

MT- 41
MT-126
MT-127

M 48631
M 48716
M 48717

56 IBLA 6